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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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CHAPTER XCIII.

OF OFFENSES AGAINST THE SOVEREIGNTY OF THE STATE.

New. 1 SECTION 1. Treason against this state shall consist only in
2 levying war against the same, or in adhering to the enemies
3 thereof, giving them aid and comfort.

New. 1 SECT. 2. Whoever commits treason against this state
2 shall be punished by imprisonment in the state prison for
3 life.

New. 1 SECT. 3. Whoever, having knowledge of the commission
2 of treason, conceals the same, and does not, as soon as may
3 be, disclose and make known such treason to the governor
4 or one of the judges of the supreme court, shall be adjudged guilty
5 of the offense of misprison of treason and be punished by
6 fine not exceeding one thousand dollars, or by imprisonment
7 in the state prison not exceeding five years, or in the
8 common jail not exceeding two years.

New. 1 SECT. 4. No person shall be convicted of treason but
2 by the testimony of two lawful witnesses to the same overt
3 act of treason whereof he stands indicted, unless he confesses
4 the same in open court.

CHAPTER XCIV.

OFFENSES AGAINST LIFE AND PERSON.

c89 c. s. p. 702, Sect. 1. 1 SECTION 1. The killing of a human being, without the
2 authority of law, by poison, shooting, stabbing, or any other
3 means, or in any other manner, is either murder, manslaughter,
4 or excusable or justifiable homicide, according to
5 the facts and circumstances of each case.

c14 1862-p. 65, Sect. 1. 1 SECT. 2. Such killing when perpetrated with a premed-
2 itated design to effect the death of the person killed, or any
3 human being, shall be murder in the first degree, and whoever
4 is convicted of the same shall suffer the penalty of
5 death; but any person convicted of any capital crime shall

6 be kept in solitary confinement for a period of not less than
 7 one month nor more than six months, in the discretion of
 8 the judge before whom the conviction is had; at the expi-
 9 ration of which time it shall be the duty of the governor to
 10 issue his warrant of execution. Such killing, when perpe-
 11 trated by any act eminently dangerous to one or more per-
 12 sons, and evincing a depraved mind, regardless of the life
 13 of such person or persons, although without any design to
 14 effect death, shall be murder in the second degree, and
 15 shall be punished by imprisonment in the state prison for
 16 life; when perpetrated without any design to effect death
 17 by a person engaged in the commission of any felony, it
 18 shall be murder in the third degree, and be punished by im-
 19 prisonment in the state prison not more than thirty years
 20 nor less than seven years.

1 SECT. 3. The killing of one human being by the act,
 2 procurement, or omission of another, in cases where such
 3 killing is not murder according to the provisions of this
 4 chapter, is either justifiable or excusable homicide, or man-
 5 slaughter. C. S. p. 702, Sect. 3. C 89

1 SECT. 4. Such homicide is justifiable when committed
 2 by public officers and those acting by their command, in
 3 their aid and assistance, either in obedience to any judg-
 4 ment of any competent court; or when necessarily commit-
 5 ted in overcoming actual resistance to the execution of some
 6 legal process, or to the discharge of any other legal duty;
 7 or when necessarily committed in retaking felons who have
 8 been rescued, or who have escaped; or when necessarily
 9 committed in arresting felons fleeing from justice. C. S. p. 702, Sect. 4.

1 SECT. 5. Such homicide is also justifiable when commit-
 2 ted by any person in either of the following cases:
 3 *First.*—When resisting any attempt to murder such per-
 4 son, or to commit any felony upon him or her, or upon
 5 or in any dwelling house in which such person is; or, C. S. p. 703, Sect. 5.
 6 *Second.*—When committed in the lawful defense of such
 7 person, or of his or her husband, wife, parent, child, mas-
 8 ter, mistress, or servant, when there is a reasonable ground
 9 to apprehend a design to commit a felony, or to do some
 10 great personal injury, and there is imminent danger of such
 11 design being accomplished; or,
 12 *Third.*—When necessarily committed in attempting, by
 13 lawful ways and means to apprehend any person for any
 14 felony committed; or lawfully suppressing any riot, or in
 15 lawfully keeping and preserving the peace.

1 SECT. 6. Such homicide is excusable when committed
 2 by accident or misfortune in lawfully correcting a child or C. S. p. 703, Sect. 6.

3 servant, or in doing any other lawful act by lawful means,
4 with ordinary caution, and without any unlawful intent.

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C. S. p. 703, Sect. 7.

1 SECT. 7. Whenever it appears to the jury, on the trial
2 of any person for murder, or manslaughter, that the alleged
3 homicide was committed under circumstances, or in cases
4 where by law such homicide was justifiable or excusable,
5 the jury shall render a verdict of not guilty.

C. S. p. 703, Sect. 8.

1 SECT. 8. The killing of a human being, without a de-
2 sign to effect death, by the act, procurement, or culpable
3 negligence of any other, while such other is engaged in the
4 perpetration of any crime or misdemeanor, not amounting
5 to felony; or in an attempt to perpetrate any such crime or
6 misdemeanor, in cases where such killing would be murder
7 at the common law, is manslaughter in the first degree.

C. S. p. 703, Sect. 9.

1 SECT. 9. Whoever deliberately assists another in the
2 commission of self-murder, is guilty of manslaughter in the
3 first degree.

C. S. p. 703, Sect. 10.

1 SECT. 10. The wilful killing of an unborn infant child,
2 any injury to the mother of such child, which would be
3 murder if it resulted in the death of such mother, is man-
4 slaughter in the first degree.

C. S. p. 703, Sect. 11.

1 SECT. 11. Whoever administers to any woman pregnant
2 with a quick child, any medicine, drug, or substance what-
3 ever, or uses or employs any instrument or other means,
4 with intent thereby to destroy such child, unless the same
5 is necessary to preserve the life of such mother, or was ad-
6 vised by two physician to be necessary for such purpose,
7 shall in case the death of such child or of such mother is
8 thereby produced, be guilty of manslaughter in the second
9 degree.

C. S. p. 703, Sect. 12.

1 SECT. 12. The killing of a human being by another, in
2 a heat of passion, upon sudden provocation, or in sudden
3 combat, intentionally, but without premeditation, is man-
4 slaughter in the second degree.

C. S. p. 703, Sect. 13.

1 SECT. 13. Whoever unnecessarily kills another, except
2 by accident or misfortune, and except in cases mentioned
3 in subdivision two of section five of this chapter, either
4 while resisting an attempt by such other person to commit
5 any felony, or to do any other unlawful act, or after such
6 attempt has failed, shall be guilty of manslaughter in the
7 second degree.

1 SECT. 14. The killing of a human being by another,

2 without a design to effect death, but with a dangerous wea-
 3 pon, or in a cruel and unusual manner, in the heat of pas- 1862—p. 63, Sect. 2. c 14
 4 sion, upon sudden provocation, or in sudden combat, is
 5 manslaughter in the second degree.

1 SECT. 15. The involuntary killing of a human being,
 2 by the act, procurement, or culpable negligence of another, C. S. p. 704, Sect. 15. c 89
 3 while such other person is engaged in the commission of a
 4 trespass, or other injury to private rights or property, or
 5 engaged in an attempt to commit such injury, or engaged
 6 in an unlawful act, which killing would not be manslaught-
 7 er in the first or second degree, according to the provisions
 8 of the preceding sections of this chapter, is manslaughter in
 9 the third degree.

1 SECT. 16. If the owner of a mischievous animal, know- C. S. p. 704, Sect. 16.
 2 ing its propensities, wilfully suffers it to go at large, or
 3 keeps it without ordinary care, and such animal while so at
 4 large or not confined, kills any human being who has taken
 5 all the precautions which the circumstances permit, to avoid
 6 such animal, such owner is guilty of manslaughter in the
 7 third degree.

1 SECT. 17. Any person navigating any boat or vessel for
 2 gain, who wilfully or negligently receives so many passen- C. S. p. 704, Sect. 17.
 3 gers, or such a quantity of other lading that by means there-
 4 of such boat or vessel sinks or oversets, and thereby any
 5 human being is drowned or otherwise killed, is guilty of
 6 manslaughter in the third degree.

1 SECT. 18. If the captain, or any other person, having
 2 charge of any steamboat used for the conveyance of passen- C. S. p. 704, Sect. 18.
 3 gers, or if the engineer or other person, having charge of
 4 the boiler of such boat, or of any other apparatus for the
 5 generation of steam, shall, from ignorance or gross neglect
 6 or for the purpose of excelling any other boat in speed, cre-
 7 ate or allow to be created such an undue quantity of steam
 8 as to burst or break the boiler or other apparatus in which
 9 it is generated, or any apparatus or machinery connected
 10 therewith, by which in bursting or breaking any person is
 11 killed, every such captain, engineer, or other person, is
 12 guilty of manslaughter in the third degree.

1 SECT. 19. If any conductor, engineer, brakeman or
 2 other person having the management or control of any rail- New.
 3 road train, locomotive, engine or cars, upon any railroad, is
 4 guilty of gross negligence or carelessness or neglect, in re-
 5 lation to the conduct, management or control of such rail-
 6 road train, engine, or cars, by reason of which any human
 7 being is killed, he is guilty of manslaughter in the third de-
 8 gree.

- c 89 C. S. p. 704, Sect. 19. 1 SECT. 20. If any physician, while in a state of intoxication, without a design to effect death, administers any poison, drug or medicine, or does any other act to another person, which produces the death of such other, he is guilty of manslaughter in the third degree.
- C. S. p. 704, Sect. 20. 1 SECT. 21. The involuntary killing of a human being by another, with any weapon not dangerous, or by any means neither cruel nor unusual, in the heat of passion, is manslaughter in the fourth degree.
- C. S. p. 704, Sect. 21. 1 SECT. 22. Every other killing of a human being by the act, procurement or culpable negligence of another, where such killing is not justifiable or excusable, or is not declared in this chapter murder, or manslaughter of some other degree, is manslaughter in the fourth degree.
- C. S. p. 704, Sect. 22. 1 SECT. 23. Persons convicted of manslaughter in the first, second or third degrees, shall be punished by imprisonment in the state prison as follows :
 4 Persons convicted of manslaughter in the first degree, for a term not less than seven years ; if convicted of manslaughter in the second degree, for a term not more than seven nor less than four years.
 8 If convicted of manslaughter in the third degree, for a term not more than four years nor less than two years.
- C. S. p. 705, Sect. 23. 1 SECT. 24. Whoever is convicted of manslaughter in the fourth degree, shall be punished by imprisonment in the state prison for two years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.
- C. S. p. 705, Sect. 24. 1 SECT. 25. Whoever by previous engagement or appointment, fights a duel within the jurisdiction of this state, and in so doing inflicts a wound upon any person, whereof the person so injured dies, is guilty of murder in the second degree.
- C. S. p. 705, Sect. 25. 1 SECT. 26. Whoever is the second of either party in such duel as is mentioned in the preceding section, and is present when such wound is inflicted, whereof death shall ensue, is an accessory before the fact to the crime of murder in the second degree.
- C. S. p. 705, Sect. 26. 1 SECT. 27. Whoever fights a duel, without this state, or acts as a second or surgeon in the same, by previous arrangement, within this state, shall be incapable of voting or holding any office within this state, forever thereafter.

1 SECT. 28. Whoever engages in a duel with any deadly
 2 weapon, although no homicide ensues, or challenges another
 3 to fight such duel, or sends or delivers any written or
 4 verbal message, purporting or intending to be such challenge,
 5 although no duel ensues, shall be punished by imprisonment
 6 in the state prison not more than ten years, nor less
 7 than three years, and shall be incapable of voting or holding any
 8 office of trust or profit under the laws of this state. C. S. p. 705, Sect. 27.

1 SECT. 29. Whoever accepts such challenge, or who
 2 knowingly carries or delivers any such challenge or message,
 3 whether a duel ensues or not, and every person who is present
 4 at the fighting of a duel with deadly weapons, as an aid
 5 or second, or surgeon, or who advises, encourages or promotes
 6 such duel, shall be punished by imprisonment in the
 7 state prison not more than two years, nor less than one
 8 year. C. S. p. 705, Sect. 28.

1 SECT. 30. Whoever posts another, or in writing or
 2 print uses any reproachful or contemptuous language to, or
 3 concerning another, for not fighting a duel, or for not sending
 4 or accepting a challenge, shall be punished by imprisonment
 5 in the state prison not more than one year, nor less
 6 than six months, or by fine not exceeding five hundred dollars
 7 nor less than one hundred dollars. C. S. p. 705, Sect. 29.

1 SECT. 31. Whoever with malicious intent to maim or
 2 disfigure, cuts out or maims the tongue, puts out or destroys
 3 an eye, cuts or tears off an ear, cuts or slits or mutilates
 4 the nose or lip, or cuts off or disables a limb or member
 5 of any person, and every person privy to such intent,
 6 who is present aiding in the commission of such offense,
 7 shall be punished by imprisonment in the state prison, not
 8 more than five years, nor less than one year, or by fine not
 9 exceeding one thousand dollars, nor less than two hundred
 10 dollars. C. S. p. 705, Sect. 30.

1 SECT. 32. Whoever assaults another, with intent to
 2 murder, or to maim, or to disfigure his person in any of the
 3 ways mentioned in the preceding section, shall be punished
 4 by imprisonment in the state prison not more than
 5 five years nor less than one year, or by fine not exceeding
 6 one thousand dollars, nor less than one hundred dollars. C. S. p. 705, Sect. 31.

1 SECT. 33. Whoever being armed with a dangerous
 2 weapon, assaults another, with intent to do great bodily
 3 harm, shall be punished by fine not less than one hundred
 4 dollars, nor more than five hundred dollars, or by imprisonment
 5 in the state prison not more than five years, in the
 6 discretion of the court. 1864—ch. 41, Sect. 1. C 41

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C. S. p. 706, Sect. 33.

1 SECT. 34. Whoever assaults another, and feloniously
 2 robs, steals and takes from his person any money or other
 3 property which is the subject of larceny, such robber being
 4 armed with a dangerous weapon, with intent, if resisted, to
 5 kill or maim the person robbed, or if being so armed he
 6 wounds or strikes the person robbed, shall be punished by im-
 7 prisonment in the state prison not more than ten years, nor
 8 less than three years.

C. S. p. 706, Sect. 34.

1 SECT. 35. Whoever being armed with a dangerous weap-
 2 on, assaults another with intent to rob or to murder, shall
 3 be punished by imprisonment in the state prison not more
 4 than five years, nor less than one year.

C. S. p. 706, Sect. 35.

1 SECT. 36. Whoever by force and violence, or by assault
 2 and putting in fear, feloniously, robs, steals and takes from
 3 the person of another, any money or other property which
 4 is the subject of larceny, such robber not being armed with
 5 a dangerous weapon, shall be punished by imprisonment in
 6 the state prison, not more than three years, nor less than
 7 one year.

C. S. p. 706, Sect. 36.

1 SECT. 37. Whoever not being armed with a dangerous
 2 weapon, assaults another with force and violence, and with
 3 intent to rob or steal, shall be punished by imprisonment
 4 in the state prison not more than two years, nor less than
 5 six months.

C. S. p. 706, Sect. 37.

1 SECT. 38. Whoever either verbally or by any written
 2 or printed communication, maliciously threatens any injury
 3 to the person or property of another, with intent thereby
 4 to extort money or any pecuniary advantage whatever, or
 5 with intent to compel the person so threatened to do any
 6 act against his will, shall be punished by imprisonment in
 7 the state prison not more than one year, nor less than six
 8 months, or by fine not exceeding five hundred dollars, nor
 9 less than one hundred dollars.

C. S. p. 706, Sect. 38.

1 SECT. 39. Whoever ravishes and carnally knows any
 2 female of the age of ten years or more, by force and against
 3 her will, shall be punished by imprisonment in the state
 4 prison not more thirty years, nor less than ten years; but
 5 if the female on trial is proven to have been at the time of
 6 the offense, a common prostitute, he may be imprisoned not
 7 more than one year.

C. S. p. 706, Sect. 39.

1 SECT. 40. Whoever unlawfully and carnally knows and
 2 abuses any female child under the age of ten years, shall be
 3 punished by imprisonment in the state prison for life.

1 SECT. 41. Whoever assaults any female, with intent to
 2 commit the crime of rape, shall be punished by imprison-
 3 ment in the state prison, not more than ten years, nor less
 4 than one year.

C. S. p. 706, Sect. 40.

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1 SECT. 42. Whoever without lawful authority, and wil-
 2 fully or maliciously, and with a wrongful intent, forcibly or
 3 secretly confines or imprisons any other person in this state
 4 against his will, or forcibly carries or sends such person out
 5 the state against his will, or forcibly seizes and confines,
 6 inveigles or kidnaps any other person, with intent either to
 7 cause such person to be secretly confined or imprisoned in
 8 this state against his will, or to cause such person to be sent
 9 out of this state against his will, or to be sold as a slave, or in
 10 any way held to service against his will; and whoever sells, or
 11 in any manner transfers for any term, the service or labor
 12 of any negro, mulatto or other person of color, who has
 13 been unlawfully seized, taken, inveigled or kidnapped from
 14 this state, to any state, place or country, shall be punished
 15 by imprisonment in the state prison, not more than five
 16 years, nor less than one year, or by fine not exceeding one
 17 thousand dollars, nor less than five hundred dollare.

C. S. p. 706, Sect. 41.

1 SECT. 43. Every offense mentioned in the preceding sec-
 2 tion, may be tried either in the county in which the same
 3 was committed, or in any county in or to which the person
 4 so seized, taken, inveigled, kidnapped or sold, or whose ser-
 5 vices were so sold or transferred, has been taken, confined,
 6 held, carried or brought, and upon the trial of any such of-
 7 fense, the consent thereto of the person so taken, inveigled,
 8 kidnapped or confined, shall not be a defense, unless it sat-
 9 isfactorily appears to the jury that such consent was not ob-
 10 tained by fraud, nor extorted by duress or by threats.

C. S. p. 707, Sect. 42.

1 SECT. 44. Whoever mingles any poison with any food,
 2 drink or medicine, with intent to kill or injure any other
 3 person, or wilfully poisons any spring, well or reservoir of
 4 water, with such intent, shall be punished by imprisonment
 5 in the state prison not more than ten years nor less than
 6 one year.

C. S. p. 707, Sect. 43.

1 SECT. 45. Whoever assaults another with intent to com-
 2 mit any burglary, robbery, rape, manslaughter, mayhem,
 3 or any felony, the punishment of which assault is not here-
 4 in prescribed, shall be punished by imprisonment in the
 5 state prison not more than three years nor less than six
 6 months, or by fine not exceeding one thousand dollars, nor
 7 less than one hundred dollars.

C. S. p. 707, Sect. 44.